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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,427	12/31/2003	Frank Fago	L-F/217/273	1785

7590 07/11/2007
WOOD, HERRON & EVANS, L.L.P.
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441 Vine St.
Cincinnati, OH 45202

EXAMINER
MCCORKLE, MELISSA A

ART UNIT	PAPER NUMBER
3763	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No. 10/750,427	Applicant(s) FAGO ET AL.	
	Examiner Melissa A. McCorkle	Art Unit 3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>02/21/2007</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 9-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Wilson et al (5,573,515). Wilson discloses a method comprising the steps of expelling substantially all air from the fill tube [any air ejected, column 2, line 11], thereafter, filling the syringe at a first rate [user may adjust rate, furthermore there is a flow rate display, 264, and evidence that the flow rate is changed at column 12, lines 20-22] wherein aeration of the contrast media is prevented [contrast fill operation repeated, column 5 line 63], said first rate being faster than a second rate [flow rate changeable, line 20-22 of col 12] that is a maximum fill rate if air is not previously expelled from the fill tube; wherein the step of expelling includes drawing a first amount of contrast media into the syringe [column 6 lines 1-2] and expelling the first amount of the syringe and fill tube; or wherein the step of expelling includes expelling substantially all air from the syringe; or wherein the step of expelling and/or filling are performed by said contrast media injector automatically under the control circuitry of the injector [column 6 line 30.]

3. Wilson discloses a method for changing contrast media containers during a syringe filling sequence, comprising the steps of pausing the syringe filling sequence of a syringe when a first contrast container is substantially emptied [column 9, line 63+];

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replacing the first contrast container with a second contrast container; expelling substantially all air from a fill tube coupled between the syringe and second contrast container [column 10 line 13], and thereafter, resuming filling the syringe from the second contrast container at a first rate wherein aeration of the contrast media is prevented [column 5 line 63], said first rate being faster than a second rate that is a maximum fill rate if air is not previously expelled from the fill tube [column 12 lines 1-2, flow rate display 264]; wherein the step of expelling further includes the step of expelling a portion of contrast media in the syringe out of the fill tube into the second contrast container [column 6 lines 4-20]; or expelling substantially all air from the syringe [column 10 line 13].

Response to Arguments

1. Applicant's arguments filed 01/12/2007 have been fully considered but they are not persuasive. Examiner has clarified more specifically the points which are pertinent to applicant's current claims. Although Examiner understands attorney's arguments regarding the differences between the prior art and the instant applicant, Examiner feels that these differences are not distinctly pointed out in the current claims enough to distinguish over the prior art, and that the current claims read on a conventional fill sequence. Examiner specifically points out in column 5 where the "user will meter the amount and rate of contrast material injected.." (line 44+ and "at line 61, "The contrast fill operation is performed during initial set up of system and maybe be *repeated during operation of system whenever syringe body is running low on radiographic contrast material.*" (emphasis added.) This indicates that before syringe is completely emptied,

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it is expelled of air and refilled, and this process may happen over again, and that the user can alter the rate and amount for the safety of the patient.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melissa A. McCorkle whose telephone number is (571) 272-2773. The examiner can normally be reached on Monday - Friday, 9:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Lucchesi can be reached on (571) 272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Melissa A McCorkle
Examiner
Art Unit 3763

/MAM/
06/04/2007



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